



## **Zoning Administrator Hearing**

### *Minutes*

Mizner Conference Room  
Mesa City Plaza Building, Suite 130  
20 East Main Street  
Mesa, Arizona, 85201

**John S. Gendron**  
**Hearing Officer**

**DATE** July 15, 2008      **TIME** 1:30 P.M.

**Staff Present**

Jeff McVay  
Brandice Elliott  
Kelly Arredondo

**Others Present**

John Wolfe	Kelly Asbury
Robert Williamson	Bill Petrie
Joe Crackel	Trevor Fish
Rick Shaw	Steven Sung
Dan O'Connor	Wayne Martella
Tony Sola	Kevin Todd
Nicole Posten-Thompson	

### **CASES**

Case No.:                      ZA08-052

Location:                     2431 East McKellips Road

Subject:                      Requesting a Development Incentive Permit (DIP) to allow development of a group commercial center in the C-2 zoning district.

Decision:                    Approved with the following conditions:

1. *Compliance with the site and landscape plans submitted, except where modified by the Design Review case listed below.*
2. *Relocate the landscape medians adjacent to Shops "A" to meet the required maximum of eight (8) contiguous parking spaces.*
3. *Replace the single parking space adjacent to south wall of the buildings with landscaping.*
4. *Provision of an eight-foot by fifteen-foot (8'x15') landscape island at the south end of the parking row adjacent to east property line.*
5. *Provision of a minimum fifteen-foot landscape setback from the east property line, including the solid waste enclosure.*
6. *Provision of a minimum twelve-foot by fifteen-foot (12'x15') landscape island at the south end of the parking row adjacent to Shops "A" and Office.*
7. *Compliance with the findings of the noise impact study completed by Acoustical Consulting Services and dated July 15, 2008.*
8. *Compliance with all requirements Design Review Board case DR08-46.*
9. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

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**Summary:**

Wayne Martella, property owner, represented the request, noting that he commissioned a sound study, which was completed shortly before the hearing date. Mr. Martella provided a copy of the sound study to the representative of the neighboring property owner and Mr. Gendron. Trevor Fish, representative of neighboring property owner, requested a one-week continuance to allow sufficient time to review the sound study. Tony Sola, acoustical consultant, provided a brief description of the completed noise impact study, noting the study projected a noise impact of 55 dBA on the mobile home property, and that an ambient noise level of between 50 and 61 dBA existed.

Some discussion occurred around the possibility of Mr. Martella committing to no tire shops. Mr. Martella was unwilling to make that commitment. Mr. Gendron confirmed with the applicant that an eight-foot wall would be constructed between the project and neighboring residential uses, that the hours of operation would be 8-5 M-F and 8-12 Saturday, and that the nearest residential structure was 200-220 feet away. Mr. McVay provided a brief staff report noting that staff was comfortable that the neighbors concern with noise impact had been addressed in the findings of the noise impact study. Mr. Gendron, in approving the request, noted his comfort with the testimony related to the noise impact and conditioned the request to compliance with the findings of the noise impact study.

**Finding of Fact:**

- The approved DIP allows development of Group Commercial Development with one multi-tenant retail building and two (2) General Auto Repair buildings. The DIP allows reduction in the required setbacks and an increase in the maximum number of contiguous parking spaces in one location. The site complies with all other development standards.
- As justification for the request, the applicant has noted the size and shape of the property, the goal of orienting the buildings away from adjacent residential properties, and the redevelopment of a former fueling station.
- The site plan proposed represents substantial conformance with current Code requirements, while permitting the development of the site with a use permitted in the C-2 zoning district. The proposed site plan provides parking, parking lot landscape islands, and setbacks from west and south property lines consistent with or in excess of minimum Code requirements.
- The approval includes additional landscaping in three locations that would replace three parking spaces, leaving the site with 8 spaces over the required minimum.
- A noise impact study has been completed that states the anticipated impact to the mobile home park to the east of 55 dBA. The noise impact study further states the ambient noise level is between 50 and 61 dBA. The Design Review Board has approved the proposed plan through case DR08-46.
- The subject property is consistent with the definition of a bypassed parcel, the incentives proposed are necessary to accommodate the proposed development, the incentives approved will allow development commensurate with surrounding

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existing development, and the incentives will result in a development compatible with, and not detrimental to, adjacent properties or neighborhoods.

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Case No.: ZA08-058TC

Location: 51 South Extension Road

Subject: Requesting a Special Use Permit to allow a commercial communication tower that exceeds the maximum height permitted in the C-3 zoning district.

Decision: Approval with the following conditions.

1. *Compliance with the basic development as shown on the development plans dated May 19, 2008.*
2. *Full compliance with the approved plans and current Building Code requirements, unless modified through the appropriate review.*

Summary: Steven Sung, applicant, represented the requested SUP. In response to Mr. Gendron, Mr. Sung noted that the location was a capacity site, that there were no suitable verticalities within the ¼ mile search radius, that the faux palm fronds held up well in the heat and sun, and that the company would replace fronds that fell into disrepair. Mr. Murphy summarized the staff report and recommendation.

Finding of Fact:

- The proposed sixty-five (65') foot high monopalm is located within a commercial zoning district and will not adversely impact surrounding properties.
- The proposed monopalm complies with the City of Mesa's Commercial Communications Guidelines, Mesa General Plan, Town Center Redevelopment Plan, and the Town Center Concept Plan.
- The new monopalm is justified because there is no reasonable possibility to place equipment at the required height on an existing facility.
- The design of the communications tower as a Palm Tree lessens the visual impact from Main Street, Extension, and 1<sup>st</sup> Avenue.

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Case No.: ZA08-060

Location: 3845 North Higley Road

Subject: Requesting: 1) a variance to allow parcel with less than the minimum width street frontage required in the R1-90 zoning district; and 2) a Substantial Conformance Improvement Permit to allow the expansion of an industrial use in the M-1 zoning district.

Decision: Approval with the following conditions.

1. *Compliance with the site plan submitted except as modified by the conditions below.*
2. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Nicole Poston, architect, and William Petrie, applicant, represented the requested variance and SCIP. Mr. Petrie noted that the parcels were created prior to annexation without frontage on a public street and this request is an improvement in relation to Code requirements. Mr. Petrie further noted that the business has been in operation for seven years and the rezoning and proposed development will make the site legal for industrial activity. Mr. Gendron discussed the specific requests and the site plan with staff. Mr. Welliver provided a brief staff report.

Finding of Fact:

- The approved variance allows a parcel with less than the minimum width street frontage required in the R1-90 Zoning District and the approved Substantial Conformance Improvement Permit (SCIP) allows modification to the required Site Development Design Standards for the expansion of an existing metal fabrication facility.
- The Planning & Zoning Board and City Council approved the applicant's Rezone and Site Plan Review request, which established M-1 zoning on the western portion of the applicant's property. In addition, the Design Review Board approved the architecture, design, and landscaping of the proposed expansion.
- The metal shop currently occupies two separate buildings with insufficient provision for screening, parking and circulation. The approved addition will establish one centralized building with adequate parking. The existing residential structure will be used as the primary residence and the lot lines have been adjusted to separate the M-1 and R1-90 delineated sites.
- Sufficient justification exists for this variance, as the eastern lot in this request is legal non-conforming and established prior to annexation without frontage on a dedicated street. The combination of the existing lots will establish frontage for both the M-1 and R1-90 zoned parcels. The existing land uses and topography to the north will preclude any future roadway construction at this location.

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- Strict application to the minimum frontage requirement would deprive this property owner of development alternatives provided to other property owners utilizing the easement.
- All residential development in this area was conducted entirely under Maricopa County jurisdiction, which did not require strict adherence to Mesa's development standards, including lot width.
- The applicant has proposed physical improvements to the existing development site, which constitute the greatest degree of compliance with current provisions. If strict adherence to current landscape and building setbacks were applied, it would require the demolition of either eastern portion of the structure in the M-1 lot or the removal of the pool in the rear of the R1-90 lot.
- At the request of Mesa's Transportation Division, the applicant has dedicated 65' of R.O.W. the entire length of the property adjacent to Higley Road. This dedicated area represents approximately 23,845 sq. ft., or ½ acre of dedication. An additional 20' setback from the R.O.W. would reduce the size of the parking field and potentially eliminate parking stalls important to the business operation. The reduction would also have a negative effect on the circulation pattern of the development.
- The applicant has provided a 15' setback between the M-1 and R1-90 uses, where Code requires a 25' setback. If future development ensues according to the General Plan, the area to the east of the subject parcel (including the owner's residential lot) will most likely be industrial development. The proposed setback would be consistent with industrial development requirements.

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Case No.: ZA08-061

Location: 500 South 80<sup>th</sup> Street West

Subject: Requesting a Special Use Permit (SUP) for a commercial communication tower that exceeds the maximum height permitted in the R1-6-AS-DMP zoning district.

Decision: Approval with the following conditions.

1. *Compliance with the site plan submitted except as modified by the conditions below.*
2. *The monopalm shall have a maximum height of sixty-five-feet (65') at the top of the pole and top of the antennas.*
3. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Rick Shaw, applicant, presented the Special Use Permit request. In response to questions from Mr. Gendron, Mr. Shaw explained the other options that were reviewed and eliminated prior to this proposal. Mr. Shaw further noted that he was not aware of long term maintenance issue with the faux palm towers, and stated on record that the wireless provider would do any repair or maintenance necessary to ensure the tower maintained the faux palm appearance. Ms. Elliott provided a summary of the staff report and recommendation.

Finding of Fact:

- The approved Special Use Permit (SUP) allows the placement of a 65-foot high monopalm adjacent to the Fountain of the Sun (FOS) Country Club. In addition to letters of notification, the applicant has received approval from the FOS Country Club property owners association, and has notified FOS residents of the proposed monopalm via a bulletin board posting.
- The monopalm will be 65-feet high and resemble a date palm. The monopalm will consist of a stealth pole camouflaged with cladding. The array will consist of three sectors, each with two antennas, for a total of six antennas. Three different sizes of antennas are proposed, with the largest being 94.7" L x 11.2" W x 5" D. The antennas will be concealed with 60 palm fronds.
- A 12' x 20' equipment shelter will be screened with a 12-foot high perimeter wall. The wall would be painted and textured to match the existing clubhouse. The applicant has further indicated that no landscape will be displaced in the lease area, and that there will be sufficient area to expand the equipment needs in the future.
- The applicant noted other sites in the study were too close to existing residences, did not have sufficient area, or would not provide adequate coverage. The results of the study indicated that the proposed site is best-suited for the new monopalm.
- The proposed monopalm complies with the Commercial Communications Towers Guidelines in that it is over 250-feet from the right-of-way, where only 65-feet

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would be required. In addition, the proposed monopalm is 281-feet from adjacent residences, where only 130-feet would be required.

- The visibility of the monopalm will be minimized by increased setbacks from the right-of-way and adjacent residences, as well as its proximity to other date palms that have been used to landscape areas around the golf course. In addition, the materials used to conceal the antennas would also minimize visibility. As a result, the proposed monopalm would be compatible with, and not detrimental to, adjacent properties or the neighborhood in general.

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Case No.: ZA08-062

Location: 5450 East Capri Avenue

Subject: Requesting a variance to allow a fence to exceed the maximum height permitted in a required front yard in the R1-9 zoning district.

Decision: Denial.

Summary: Kelly Asbury, property owner, presented the request noting that he was in agreement with the staff recommendation, that the neighbors to the side and back are in support of the request, and that he didn't feel the wall would cause any problems. John Wolf, neighbor, noted his objection to the request due to the visibility of the block wall and fear that a motorhome or storage container will be parked behind the wall. Joe Crackle, neighbor, noted his objection to the request and presented Mr. Gendron with photos of the site. Robert Williamson, neighbor, noted his objection to the request due to the height of the wall in the front yard, the precedent that could be set, and potential visibility issues for vehicles turning from Capri Avenue. Mr. McVay responded to some of the questions raised by the neighbors and summarized the staff report and recommendation. Mr. Gendron, in making his decision, noted that unique conditions did not exist that would preclude the construction of a wall consistent with Code without the need for a variance.

Finding of Fact:

- The applicant has not provided sufficient evidence of unique conditions of the property that would prevent the construction of a wall that accomplished the goals of the proposal and complied with current Code requirements for placement and height.
- The justification provided by the applicant relates to self-imposed hardships and the granting of a variance would constitute the grant of special privilege unavailable to other properties. Additionally, the applicant has options available that do not require a variance.

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There being no further business to come before the Zoning Administrator, the hearing adjourned at 2:52 p.m.

The cases for this hearing were recorded and are available upon request.

Respectfully submitted,

John S. Gendron  
Hearing Officer

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